

REMARKS

Claims 1-20 are pending in the present application. Claim 1 stands rejected.

Claims 2-20 are objected to.

REJECTIONS UNDER 35 U.S.C. § 102:

Reconsideration is respectfully requested of the rejection of claim 1 under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2004/0046925 to Matsuda.

Matsuda Does Not Show A First Distance In A First Direction That Is Equal to or Smaller Than A Second Distance In A Second Direction Between Liquid Crystal Dots

When the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. See MPEP 2125 (citing Hockerson-Halberstadt, Inc. v. Avia Group Int'l, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000), which states that "it is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.")

The Examiner maintains that the specification of Matsuda states that "Fig. 13 is a schematic view showing positions for dropping a liquid crystal" (emphasis added by Examiner). As a result the Examiner concludes that one may rely on Fig. 13 to ascertain "the position of the dots relative to each other", but not ascertain "the size of the dots and the precise distances between the dots". See March 23, 2006 Office Action at 3.

Applicants respectfully disagree with the Examiner's position. Indeed, in order to determine that the liquid crystal dots 4b in Fig. 13 are equally spaced from each other in both directions, the Examiner must conclude that Fig. 13 illustrates actual proportions of

the size of the dots and the distances therebetween. However, Matsuda is silent as to the dimensions of the drawings and does not state that the drawings are to scale. The disclosure that the view “shows positions” for dropping liquid crystal is not sufficient to conclude that the drawings are to scale.

Moreover, the Examiner is erroneously operating under the premise that determining the position of the dots relative to each other has nothing to do with the size of the dots or distance therebetween. However, it is clear that the determinations are not exclusive, but wholly dependent on each other. In other words, it is impossible to conclude that the dots are equally spaced in both directions without assuming that the drawing show actual proportions.

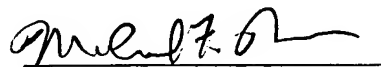
Accordingly, the Examiner cannot rely on Fig. 13 as illustrating equal distances between the dots in both directions because there is no basis to conclude that Fig. 13 illustrates actual proportions of the size of the dots and the distances therebetween. As such, Applicants respectfully request that the Examiner's rejection of claim 1 under § 102(e) be withdrawn.

ALLOWABLE SUBJECT MATTER

Applicants gratefully acknowledge the Examiner's indication that claims 2-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants reserve the right to rewrite claims 2-20 in independent form in a subsequent communication or response.

An early and favorable reconsideration is earnestly solicited. If the Examiner has any further questions or comments, the Examiner may telephone Applicants' Attorney to reach a prompt disposition of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael F. Morano", is written over a horizontal line.

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